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SUBJECT: THAI REACTION (GOVERNMENT AND BUSINESS) TO DOL
LISTS ON FORCED AND CHILD LABOR

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11. (SBU) Summary and Comment: A senior Thai Foreign Ministry (MFA) representative negatively reacted September 10 to reftel talking points regarding the release of the Department of Labor's (DOL) list of goods believed to be produced by forced labor or child labor (mandated by the Trafficking Victims Protection Reauthorization Act (TVPA)), and the proposed update to the E.O. 13126 list of products. The representative noted her "deep disappointment" that Thailand is being penalized for being an open society and pointedly stated, "This is not the way to work with friends." She also reaffirmed that the Thai government takes seriously the problem of forced and child labor. Later conversations with other MFA representatives confirmed the Thai government's concern that the DOL lists will be used to restrict the export of shrimp from Thailand to the United States. On September 14, the Secretary General of the Thai Frozen Food Association (TFFA) also expressed concern over the potential impact on his association's member companies, echoing the Foreign Ministry's concern. He noted activities undertaken over the last year to help manage the supply chain of TFFA member companies and to ensure that TFFA members do not use forced labor themselves. Both the MFA and the TFFA indicated they will make use of the public comment period associated with the E.O. 12136 list.

12. (SBU) Summary and Comment (continued): Based on the reaction of our MFA colleague, the tone of partnership that we have worked so hard to develop with the Thai government took a half-step backward with the publication of these lists. Nonetheless, we have no doubt that we will continue to find a partner in the Thai government to combat exploitative labor in all its forms in Thailand. In addition, we intend to deepen our contact with the shrimp industry's TFFA with the goal of strengthening our private sector partnerships. Our work so far has made strides in that direction. End summary and comment.

Thai Government Reaction

13. (SBU) Post delivered reftel talking points on September 10 to Kanchana Patarachoke, Director of the Foreign Ministry's North America Division, regarding the pending release of the Department of Labor's (DOL) list of goods from countries that it has reason to believe are produced by forced labor or child labor in violation of international standards; the proposed update to the 2001 list of products

that might have been mined, produced, or manufactured by forced or indentured child labor; and the 2008 Findings on the Worst Forms of Child Labor. Econoff emphasized that the TVPRA list is an awareness-raising tool and not punitive in nature, and that the listing of the Thai goods in question on the TVPRA and E.O. 13126 lists does not mean that all such goods are made with forced or child labor (or forced/indentured child labor).

14. (SBU) Director Kanchana repeatedly expressed her deep disappointment and pointedly stated, "This is not the way to work with friends." She explained her view that Thailand is being penalized for being an open society as evidenced by the listing of Thai goods and not those from many other nations. She opined that while a nuanced understanding of the lists may help observers to understand the USG's intent in publishing them, the reality is that most observers will simply see goods from Thailand listed and chose to make purchases from elsewhere. As such, the Foreign Ministry has serious concerns over the commercial impact of the lists. She felt this especially true given the E.O. 13126 list's requirement of certifications by federal suppliers prior to their providing goods to USG agencies) another disadvantage, in her opinion, for Thailand exporters. Understanding the E.O. list to be only a preliminary determination, Kanchana noted the Thai government would take advantage of the 90-day public comment period prior to the final determination.

15. (SBU) Director Kanchana noted that she understands the DOL lists to be part of a noble effort by the U.S. government to raise awareness on issues of mutual importance (to both Thailand and the United States) and to promote American values. "No one pays more attention to USG Reports than Thailand, and we take seriously the problem of forced and

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child labor." Nonetheless, intentions aside, she opined that our efforts through the lists will be counter-productive, causing consternation and potentially causing some nations to stop trying to meet our seemingly un-meetable standards.

16. (SBU) Driving home the Foreign Ministry's concern over the commercial impact of the DOL lists, MFA North America Division officials placed numerous calls to Econoffs September 14 and 16 to inquire whether section 308 of the draft U.S. Senate bill "The Customs Facilitation and Trade Enforcement Reauthorization Act of 2009" will be used to prevent Thai shrimp from entering the U.S. market. Using reftel talking points and information provided to post by the U.S. Department of Labor, Econoff explained that the USG's intent is not to restrict trade, but to raise awareness on an area of great concern and to enforce existing U.S. law with regard to forced or indentured child labor.

Private Sector Reaction - Shrimp

17. (SBU) Econoff and DHS/ICE Deputy Attache sat down late September 14 with the Secretary General of the Thai Frozen Food Association (TFFA) and Assistant Managing Director of the Narong Seafood Company, Arthon Piboonthanapatana. Arthon, not surprisingly, expressed concern over the implications for TFFA members of the listing of Thai shrimp (a key export product for TFFA members) on both the TVPRA and E.O. 13126 lists. We provided Arthon with background material from the DOL/ILAB webpage, briefed him on the reasons for and scope of the lists, and informed him of the public comment period for the E.O. 13126 list. Like the MFA, Arthon indicated that the TFFA would also provide comment to DOL, specifically to explain its supply-chain management activities undertaken over the past year. He also stated that the TFFA established a rule that any member found to employ forced child labor would be expelled from the association.

18. (SBU) NOTE: In June 2008, Embassy Bangkok DHS/ICE and Economic Section officers accompanied Thai government labor inspectors (as well as TFFA, civil society and Foreign Ministry representatives) on visits to sixteen member companies of the TFFA to investigate the use of forced child labor in the Thai shrimp industry, as alleged in the December 2008 publication of the Solidarity Center publication "The True Cost of Shrimp," and as confirmed by Thai law enforcement raids on shrimp-processing facilities in September 2006 and March 2008 that uncovered such practices. The site visits included interviews with employees, a review of financial records by forensic auditors, and an inspection of some employee living quarters. While the site visits did not uncover the use of forced child labor in the companies visited, they helped raised awareness within Thailand on the issue of exploitative labor in the shrimp industry, and put the industry on notice that illegal activity by some actors within the sector was of growing concern to many in the international community.

19. (SBU) NOTE (continued): Since that time, DHS/ICE has maintained regular contact with the TFFA. According to the TFFA, as an outgrowth of the June 2008 activity, it has begun weekly, random inspections of shrimp peeling facilities that supply TFFA members. On August 28, DHS/ICE officials accompanied TFFA representatives on an inspection of two facilities in Samut Sakhon province. DHS/ICE observed the inspection process that included a review of the cleanliness of shrimp peeling areas, potential safety hazards, financial records, and copies of identification and work permit documents). No forced child labor was found on these August 28 TFFA inspections, and none has been reported to post from any TFFA inspections that it may have conducted prior. End Note.
JOHN